

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VIRGIL RAY GREEN, #189440,

Petitioner,

v.

SHIRLEY A. HARRY,

Respondent.

Case No. 06-15377

HON. LAWRENCE P. ZATKOFF

ORDER

This matter is before the Court on Petitioner's motion for relief to alter judgment pursuant to Fed. R. Civ. P. 60(b) [dkt 33]. The Court finds that the facts and legal arguments are adequately presented in Petitioner's papers such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(f)(2), it is hereby ORDERED that the motion be resolved on the brief submitted. For the reasons set forth below, Petitioner's motion is DENIED.

Under Fed. R. Civ. P. 60(b), "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: . . . mistake . . . [or] any other reason that justifies relief."

Here, Petitioner claims that he did not receive notice of the Court's prior orders, namely the September 30, 2009, opinion and order dismissing his petition for writ of habeas corpus. However, the Court finds that the evidence belies Petitioner's assertion. On November 13, 2009, Petitioner filed a motion for relief from the Court's September 30, 2009, judgment. The Court is at a loss for how Petitioner could have filed a motion objecting to the Court's September 30, 2009, order within

45 days without having received a copy of the Court's order. Petitioner also asks the Court to modify the caption to reflect the name of the warden at the correctional facility where Petitioner is currently located, but Petitioner's latest notice of change of address does not list such person's name.

Accordingly, Petitioner's motion for relief to alter judgment pursuant to Fed. R. Civ. P. 60(b) [dkt 33] is DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: November 2, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on November 2, 2010.

s/Marie E. Verlinde
Case Manager
(810) 984-3290